

Message Text

LIMITED OFFICIAL USE

PAGE 01 SAN JO 03096 251320Z

46

ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 COME-00 L-03 HEW-02 EUR-12

CIAE-00 INR-07 NSAE-00 /038 W
----- 067550

R 242221Z JUL 75

FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC 922
INFO AMEMBASSY GUATEMALA
AMEMBASSY MANAGUA
AMEMBASSY PANAMA
AMEMBASSY SAN SALVADOR
AMEMBASSY TEGUCIGALPA

LIMITED OFFICIAL USE SAN JOSE 3096

E.O. 11652: N/A

TAGS: ECEM, CS

SUBJECT: PHARMACEUTICAL PATENT PROTECTION

PASS: EB/CBA/BP - MR. HARVEY WINTER

REF: SAN JOSE 0059 OF 1/7/75

1. A BILL IS CURRENTLY PENDING IN THE COMMITTEE ON JURIDICAL AFFAIRS OF THE COSTA RICAN NATIONAL ASSEMBLY WHICH WOULD REPLACE THE EXISTING PATENT LAW WITH A NEW LAW. MUCH OF THE CURRENT BILL WAS DRAFTED BY THE COSTA RICAN PATENT COMMISSIONER AND IT CONTAINS MANY FEATURES WHICH WOULD MODERNIZE COSTA RICAN LEGISLATION IN THIS AREA AND CAN BE CONSIDERED TO BE FAVORABLE TO PATENT PROTECTION. HOWEVER, THE BILL CONTAINS TWO SECTIONS REFERRING TO PHARMACEUTICALS WHICH HAVE CAUSED SOME DISMAY AMONG LOCAL PHARMACEUTICAL PRODUCERS. THESE SECTIONS OF THE LAW WERE ADDED TO THE ORIGINAL DRAFT AND DO NOT HAVE THE APPROVAL OF THE COSTA RICAN PATENT COMMISSIONER.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 SAN JO 03096 251320Z

2. THE SECTIONS DEALING WITH PHARMACEUTICALS ARE:

1. ARTICLE ONE - WHICH PROVIDES FOR ONLY A FIVE-YEAR TERM OF PROTECTION FOR PHARMACEUTICAL PRODUCTS AS CONTRASTED WITH A FIFTEEN-YEAR TERM OF PROTECTION FOR OTHER PRODUCTS. THE TERM IS COUNTED FROM THE TIME OF APPLICATION FOR A PATENT.

2. ARTICLE 14(F) - WHICH STATES THAT ONLY THOSE PHARMACEUTICAL PROCESSES WHICH ARE CARRIED OUT "IN TOTALITY" IN COSTA RICA CAN BE PATENTED.

3. THIS BILL IS THE SAME ONE WHICH WAS INTRODUCED IN THE LEGISLATURE LATE LAST YEAR (SEE REFTTEL). INFORMED SOURCES STATE THAT ITS CHIEF PROMOTER IS THE MINISTER OF HEALTH WHO BELIEVES THAT THE NEW BILL WILL RESULT IN THE LOWERING OF THE PRICES OF MEDICINES IN COSTA RICA.

4. IN OUR DISCUSSIONS WITH COSTA RICAN OFFICIALS AND OTHERS ABOUT THIS BILL, IT WOULD BE VERY USEFUL TO HAVE THE DEPARTMENT'S VIEWS AS TO WHETHER SUCH A LAW WOULD BE UNUSUAL IN TERMS OF THE KIND OF PROTECTION AVAILABLE FOR PHARMACEUTICAL PRODUCTS IN MOST COUNTRIES. FOR EXAMPLE, AN INDUSTRY SOURCE CLAIMS THAT EVEN THE COUNTRIES OF THE ANDEAN CODE PROVIDE FOR GREATER PROTECTION THAN WOULD THIS BILL IF IT WERE TO BECOME LAW. SAME SOURCE ALSO CLAIMS THAT IN THE CASE OF PHARMACEUTICAL PRODUCTS A TEN-YEAR TERM OF PROTECTION WOULD SEEM TO BE THE ABSOLUTE MINIMUM AS PRODUCERS USUALLY APPLY FOR PROTECTION WHILE A DRUG IS STILL BEING DEVELOPED, I.E. AS MUCH AS TWO TO THREE YEARS BEFORE IT IS MARKETED. FURTHERMORE, HE CLAIMS THAT PROFITS ARE USUALLY NOT REALIZED ON A NEW DRUG UNTIL SEVERAL YEARS AFTER IT IS PUT ON THE MARKET. COPY OF PENDING BILL BEING POUCHED TO EB/CBA/BP UNDER TRANSMITTAL SLIP. ON OTHER HAND NEWSPAPER ACCOUNTS HERE HAVE INDICATED THAT COUNTRIES SUCH AS FRANCE AND ITALY DO NOT PROVIDE PATENT PROTECTION FOR PHARMACEUTICAL PRODUCTS. EMBASSY IS AWARE OF THIS PROBLEM IN CASE OF ITALY BUT DOES NOT KNOW WHAT STATUS IS IN FRANCE. FURTHERMORE, WE UNDERSTOOD LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 SAN JO 03096 251320Z

THAT ITALY WILL BE EXTENDING SUCH PROTECTION IN NEAR FUTURE WHEN IT JOINS EUROPEAN PATENT CONVENTION. IS THIS CORRECT?
TODMAN

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DRUGS, PATENTS, LEGISLATIVE BILLS
Control Number: n/a
Copy: SINGLE
Draft Date: 24 JUL 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975SANJO03096
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750257-0707
From: SAN JOSE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750725/aaaaawiu.tel
Line Count: 111
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 SAN JOSE 59
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 05 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05 SEP 2003 by CunninFX>; APPROVED <25 NOV 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PHARMACEUTICAL PATENT PROTECTION PASS: EB/CBA/BP - MR. HARVEY WINTER
TAGS: ECEM, EIND, CS
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006